

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
FREDERICK TEAL,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 04-11634-RGS
	)	
LUIS SPENCER,	)	
	)	
Respondent.	)	
_____	)	

**ANSWER**

Pursuant to Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts, the respondent hereby answers the petition for writ of habeas corpus of the petitioner Frederick Teal.

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted. Answering further the respondent states that the petitioner was also convicted of possession of marijuana, which was place on file with his consent, possession of cocaine with intent to distribute and possession of cocaine with intent to distribute in a school zone, both of which were set aside by the trial judge as lesser included offenses of the trafficking convictions.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.

9(a)-(b). Admitted.

9(c). Admitted. Answering further the respondent states that the citation for the Appeals Court opinion is 60 Mass. App. Ct. 1123, 805 N.E.2d 532 (2004).

9(d). Admitted.

9(e)(1)-(2). Admitted.

9(e)(3). Left blank by petitioner. Answering further, the respondent states that the citation of the denial of further appellate review is 441 Mass. 1107, 807 N.E.2d 830 (2004)

9(e)(4). Admitted.

9(f). Not applicable.

10. The respondent lacks the knowledge or information sufficient to admit or deny the allegations contained in paragraph 10.

11(a)(1)-(2) Admitted.

11(a)(3). Admitted. Answering further the respondent states that the petitioner also claimed that his pre-trial report was illegally filed in his motion for new trial.

11(a). Not applicable.

11(b). Left blank by petitioner.

11(c). Admitted.

11(d). Not applicable.

12. The respondent states that paragraph 12 contains legal argument and conclusions to which no response is required.

13. Left blank by petitioner.

14. The respondent lacks the knowledge or information sufficient to admit or deny the allegations contained in paragraph 14.

15(a)-(g). Admitted.

16. Admitted.

17. The respondent lacks the knowledge or information sufficient to admit or deny the allegations contained in paragraph 17.

And further answering the respondent states will attempt to obtain transcripts from the petitioner's trial if the court finds them necessary. Pursuant to Rule 5 of the Rules Governing 28 U.S.C. §2254 cases, the respondent is filing a Supplemental Answer with the following documents from the petitioner's state court proceedings:

- 1) Docket Sheets, *Commonwealth v. Frederick Teal*, SUCR2000-10324
- 2) Defendant's brief and record appendix, No. 02-P-1414
- 3) Commonwealth's Brief, No. 02-P-1414
- 4) Defendant's reply brief
- 5) *Commonwealth v. Frederick Teal*, 60 Mass. App. Ct. 1123, 805 N.E.2d 532 (2004)
- 6) Application for further appellate review
- 7) *Commonwealth v. Frederick Teal*, 441 Mass. 1107, 807 N.E.2d 830 (2004)(further appellate review denied).

#### **DEFENSES**

1. The petition contains grounds that have not been exhausted in the state courts.
2. The petition fails to state a claim upon which habeas corpus relief can be granted.
3. In the alternative, the state court adjudication of the petitioner's claims was not contrary to or an unreasonable application of clearly established Supreme Court law nor was it based on an unreasonable determination of the facts in light of the evidence presented in the state court.

The respondent respectfully reserves the right to amend or supplement this Answer in the

future should the need arise.

Respectfully submitted,  
THOMAS F. REILLY  
ATTORNEY GENERAL

August 25, 2004

/s Susanne G. Reardon  
Susanne G. Reardon  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the attached documents was served upon

Frederick Teal, pro se  
2 Clark Street, P.O. Box 43  
Norfolk, MA 02056

by first class mail, postage pre-paid, on August 25, 2004.

/s Susanne G. Reardon  
Susanne G. Reardon  
Assistant Attorney General